

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Carrier Current Systems, including)	ET Docket No. 03-104
Broadband over Power Line Systems)	
)	ET Docket No. 04-37
Amendment of Part 15 regarding new)	
requirements and measurement)	
guidelines for Access Broadband over)	
Power Lines Systems)	

REPLY TO OPPOSITIONS OF THE UNITED POWER LINE COUNCIL

Pursuant to Section 1.429 of the Federal Communications Commission ("FCC") Rules, the United Power Line Council ("UPLC") hereby submits this reply to oppositions to petitions for reconsideration of the *Report and Order* in the above referenced proceeding.¹ The UPLC renews its request that the Commission eliminate the advance notice requirement for posting information to the BPL database, and that the Commission extend the deadline by which new equipment that is marketed or installed must meet the equipment certification requirements. Opponents of these requests either fail to comprehend the burden that such requirements would place on the industry, or simply don't care.

I. The Commission should eliminate the requirement that BPL operators post information to the BPL database 30-days in advance of operation.

¹ *Carrier Current Systems, including Broadband over Power Line Systems*, Report and Order, ET Docket No. 04-37, 19 F.C.C.R. 21,265 ("*Report and Order*").

In response to UPLC's request to eliminate the 30-day advance notice requirement, ARRL makes the ridiculous assertion that "BPL providers would like the Commission to protect them by regulatory means from competition in broadband delivery."² If anything, the opposite is the case. The 30-day advance notice requirement would put BPL providers at a competitive disadvantage; all the UPLC and other BPL proponents request is something closer to a level playing field.³

ARRL argues in the alternative that opposing the 30-day notice requirement also displays a disregard for interference.⁴ To the contrary, the relief sought is limited to timing; UPLC and other BPL proponents do not oppose posting the required information to the BPL database after operations have commenced. The purpose of the database is to resolve interference complaints; and the 30-day prior notice requirement does not directly advance that purpose.⁵ As Amperion explains, the requirement

² Consolidated Opposition to Petitions for Reconsideration by ARRL, The National Association for Amateur Radio at 4 (filed March 23, 2005) ("ARRL Opposition").

³ Competitors are not required to provide any advance notice to the public about their cable modem, DSL or satellite systems. To the extent that cable modem providers report at all, the system information is aggregated and limited to select aeronautical frequencies. By comparison, the BPL database provides specific location and frequency data for all frequencies of operation, as well as other information about the equipment. *But see* Report and Order at ¶49 (citing cable signal leakage reports as an example of similar restrictions on other broadband platforms).

⁴ ARRL Opposition at 5.

⁵ The purpose of the BPL database is not to invite testing by Amateur operators in areas where BPL is being deployed. *But see* ARRL Opposition at 5 (arguing that the 30-day notice requirement would provide radio Amateurs with the opportunity to test the ambient noise level in areas before BPL operation).

may actually unduly complicate the process of deploying BPL equipment.⁶ Meanwhile, the requirement clearly would invite abuse by competitors and others that would be opposed to BPL deployments generally.⁷ As such, any benefit from prior notice would be outweighed by the risk that the database would discourage the deployment of BPL systems.

II. The Commission should extend the deadline for certification of equipment that is installed or marketed.

Opposition was mixed to UPLC's request to extend the deadline for certification of equipment that is either marketed or installed. ARRL asserts that "even a cursory reading of [Section G] reveals that BPL facilities installed before January 7, 2006 never have to come into compliance with the new rules." If ARRL had taken more than a cursory reading of Section G, it would know that all BPL operations are subject to the emission limits established under the new rules and the requirement to

⁶ Petition for Reconsideration of Amperion at 2-3 (explaining that the precise frequencies of operation in a given area are rarely known 30 days in advance, and posting such information in advance may have the unintended effect of discouraging BPL operators from shifting frequencies to mitigate interference.)

⁷ ARRL claims that the 30-day advance notice requirement is necessary to provide a way for Amateurs to contact BPL operators and "make their presence known" in order to avoid interference before it occurs. ARRL Opposition at 5. There may be informal means of facilitating coordination between Amateur and BPL operations, which ARRL has not considered. *See e.g.* Opposition of Aeronautical Radio, Inc. at 2 (stating that ARINC stands ready to work with the BPL community in a spirit of cooperation to minimize interference). Moreover, UPLC is concerned that in practice prior notice would lead to preemptive lobbying with local government officials, as Current Technologies notes. *See* Reply to Oppositions of Current Technologies at 5 (filed Apr. 4, 2005).

mitigate interference or shut down, if necessary.⁸ To reiterate, BPL is an unlicensed operation and must operate on a non-interference basis to other licensed services. ARRL apparently misses this fundamental point.

The purpose of extending the transition period for installed or marketed equipment is simply to fulfill the purpose behind the transition period – to “minimize economic hardships on manufacturers by allowing them . . . to continue producing and selling existing equipment while modifying their products to meet the new requirements.”⁹ As Current Technologies explains, an extension of the deadline to the limited extent requested is necessary to provide a commercially reasonable time for the new equipment to reach the marketplace, while at the same time allowing time to clear inventory of existing equipment.¹⁰ Some are under the mistaken impression that the current transition period is reasonable, based upon assumptions about the amount of equipment already installed.¹¹

⁸ See Report and Order at ¶130, citing Section 15.5 of the Commission’s Rules (explaining that equipment currently installed and operating within the limits should be allowed to remain in operation, but cautioning that “there is not a transition period for complying with the emission limits”).

⁹ *Id.*

¹⁰ See Petition for Reconsideration of Current Technologies at 8-9 (filed Feb. 7, 2005); *and see* Reply to Opposition of Current Technologies at 7 (filed Apr. 4, 2005).

¹¹ See Opposition of Ameren Energy Communications, Inc., Virginia Electric and Power Company and Tucson Electric Power Company at 8 (filed Mar. 23, 2005) (“Opposition of Ameren, VEPCO and Tucson Electric”). See *also* Opposition of Aeronautical Radio, Inc. at 3 (filed Mar. 23, 2005) (stating that “because BPL is in a relatively nascent state, it is highly unlikely that the industry faces a surplus of unapproved equipment

However, BPL companies such as ACcess Broadband echo the concerns of Current Technologies and the UPLC that the deadline under the current transition period could create a shortage of equipment during a period that it anticipates that it will be involved in several fast growing deployments.¹² As UPLC explained at the outset, extending the deadline would not undermine the resolution of harmful interference from BPL operations; but it would likely lead to economic hardships that the Commission sought to avoid when it established the transition period.¹³ Therefore, the UPLC urges the FCC to extend the deadline for equipment certification to January 7, 2008, as it applies to equipment that is marketed or installed.

that would be rendered unmarketable in the United States by virtue of the current regulations”).

¹² Response to Petition for Reconsideration of Current Technologies, LLC at 2 (filed Mar. 22, 2005).

¹³ Ameren, VEPCO and Tucson Electric oppose extending the transition period for the laudable goal of promoting the resolution of interference, when in fact the existing equipment already must operate on a non-interference basis. *See* Opposition of Ameren, VEPCO and Tucson Electric at 9. The UPLC respectfully submits that their views are misguided.

WHEREFORE, THE PREMISES CONSIDERED, the UPLC is
pleased to provide this reply to oppositions to petitions for reconsideration
of the *Report and Order* as described herein.

Respectfully submitted,

UPLC

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April 4, 2005

CERTIFICATE OF SERVICE

I, Brett Kilbourne hereby certify that I have served on this 4th day of April, 2005 a copy of the foregoing Reply to Opposition upon the following parties by first-class mail, postage pre-paid.

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